

§ 404.1703 Definitions.

As used in this subpart—

Entity means any business, firm, or other association, including but not limited to partnerships, corporations, for-profit organizations, and not-for-profit organizations.

Legal guardian or court-appointed representative means a court-appointed person, committee, or conservator who is responsible for taking care of and managing the property and rights of an individual who is considered incapable of managing his or her own affairs.

Past-due benefits means the total amount of benefits under title II of the Act that has accumulated to all beneficiaries because of a favorable administrative or judicial determination or decision, up to but not including the month the determination or decision is made. For purposes of calculating fees for representation, we determine past-due benefits before any applicable reduction under section 1127 of the Act (for receipt of benefits for the same period under title XVI). Past-due benefits do not include:

(1) Continued benefits paid pursuant to § 404.1597a of this part; or

(2) Interim benefits paid pursuant to section 223(h) of the Act.

Representative means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you appoint to represent you in dealings with us.

We, our, or us refers to the Social Security Administration.

You or your refers to any person claiming a right under the old-age, disability, dependents', or survivors' benefits program.

[45 FR 52090, Aug. 5, 1980, as amended at 72 FR 16724, Apr. 5, 2007; 74 FR 48384, Sept. 23, 2009]

§ 404.1705 Who may be your representative.

(a) *Attorney.* You may appoint as your representative in dealings with us, any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or

a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealings with us; and

(4) Is not prohibited by any law from acting as a representative.

§ 404.1706 Notification of options for obtaining attorney representation.

If you are not represented by an attorney and we make a determination or decision that is subject to the administrative review process provided under subpart J of this part and it does not grant all of the benefits or other relief you requested or it adversely affects any entitlement to benefits that we have established or may establish for you, we will include with the notice of that determination or decision information about your options for obtaining an attorney to represent you in dealing with us. We will also tell you that a legal services organization may provide you with legal representation free of charge if you satisfy the qualifying requirements applicable to that organization.

[58 FR 64886, Dec. 10, 1993]

§ 404.1707 Appointing a representative.

We will recognize a person as your representative if the following things are done:

(a) You sign a written notice stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. An attorney does not have to sign a notice of appointment.

(c) The notice is filed at one of our offices if you have initially filed a

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claim or have requested reconsideration; with an administrative law judge if you requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

§ 404.1710 Authority of a representative.

(a) *What a representative may do.* Your representative may, on your behalf—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not sign an application on behalf of a claimant for rights or benefits under title II of the Act unless authorized to do so under § 404.612.

§ 404.1715 Notice or request to a representative.

(a) We shall send your representative—

(1) Notice and a copy of any administrative action, determination, or decision; and

(2) Requests for information or evidence.

(b) A notice or request sent to your representative, will have the same force and effect as if it had been sent to you.

§ 404.1717 Demonstration project on direct payment of fees to non-attorneys.

(a) Section 303 of the Social Security Protection Act of 2004 (SSPA), Public Law 108-203, requires the Commissioner of Social Security (Commissioner) to develop and implement a 5-year nationwide demonstration project that extends attorney fee withholding and direct payment procedures to any non-attorney representative who meets minimum prerequisites for participating in the project specified in section 303 of the SSPA and any additional prerequisites prescribed by the Commissioner. The objective of the demonstration project is to determine the effect of extending to certain non-

attorneys the fee withholding and direct payment procedures that apply to attorneys. A final report on the results of the demonstration project is to be completed and transmitted to Congress within 90 days of the project termination date, February 28, 2010.

(b) As used in this subpart, the term “eligible to participate in the direct payment demonstration project” refers to the status of a non-attorney who we have determined meets the prerequisites for participation in the demonstration project.

(c) The provisions of section 303 authorizing the direct payment of fees to non-attorneys and the withholding of title II benefits for that purpose apply in claims for benefits with respect to which the agreement for representation is entered into after February 27, 2005, and before March 1, 2010.

[72 FR 16724, Apr. 5, 2007]

§ 404.1720 Fee for a representative's services.

(a) *General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us before he or she may charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) Subject to paragraph (e) of this section, a representative must not charge or receive any fee unless we have authorized it, and a representative must not charge or receive any fee that is more than the amount we authorize.

(4) If your representative is an attorney, or a non-attorney who is eligible to participate in the direct payment demonstration project, as defined in § 404.1717, and you are entitled to past-due benefits, as defined in § 404.1703, we will pay the authorized fee, or a part of the authorized fee, directly to the representative out of the past-due benefits, subject to the limitations described in § 404.1730(b)(1). If the representative is a non-attorney who is not eligible to participate in the direct